

CHAPTER 82
WELL CONTRACTOR CERTIFICATION

[Prior to 5/12/93 see also 567—Ch 37]

567—82.1(455B) Definitions. In addition to the definitions in Iowa Code sections 455B.171, 455B.190 and 455B.190A, which are hereby adopted by reference, the following definitions shall apply to this chapter:

“*Classification*” means one of two levels of well contractor certification, designated as either well contractor or provisional certified well contractor. Both are referred to as certified well contractor in the following rules unless specifically identified otherwise.

“*Continuing education unit (CEU)*” means ten contact hours of participation in an organized education experience under responsible sponsorship, capable direction, and qualified instruction.

“*Direct charge*” means the certified well contractor at the well site responsible for ensuring that the well services are performed as required in 567—Chapters 38, 39, 43, 49 and 110.

“*Water well*” means any excavation that is drilled, cored, bored, augered, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for groundwater, monitoring groundwater, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. “Water well” does not include an open ditch or drain tiles or an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried.

“*Well services*” means new well construction, well reconstruction, installation of pitless equipment, or well plugging.

567—82.2(455B) General.

82.2(1) All well services provided on or after July 1, 1993, shall be performed by a well contractor who has been certified by the department pursuant to this chapter except that a person may construct or reconstruct a well, install pitless equipment or plug a well on the person’s own property without being certified.

82.2(2) Rescinded IAB 4/14/93, effective 3/26/93.

82.2(3) A certified well contractor shall be present at the well site and in direct charge of the well services being performed or provided.

82.2(4) Any person who is responsible for providing well services shall be certified except that a person may construct or reconstruct a well, install pitless equipment or plug a well on the person’s own property without being certified.

82.2(5) A currently certified well contractor may obtain a duplicate certificate upon payment of the same fee as required for renewal of a certificate.

82.2(6) Reserved.

82.2(7) Reserved.

82.2(8) Any certified well contractor who possesses a certificate must report to the department a change in address within 30 days after the change.

567—82.3(455B) Classification of well contractors.

82.3(1) Classifications. There shall be two classifications of certified well contractors:

1. Well contractor;
2. Provisional certified well contractor.

82.3(2) A certified well contractor has met the experience requirements, has successfully completed the well contractor certification test and has been issued a certificate by the department.

82.3(3) A provisional certified well contractor does not meet all the experience requirements for a certified well contractor but does meet the following requirements:

- a. Signs a statement on the application form that there is a shortage of certified well contractors;

b. Completes and submits an application documenting at least one year of work experience in well services performed under the direct supervision of a certified well contractor;

c. The application includes a signature of a certified well contractor who employs the applicant for provisional certification. By signing the application, the certified well contractor certifies to be jointly liable for violations of the rules regarding well services by the provisional certified well contractor and that the violation is grounds for suspension or revocation of the certification of the certified well contractor and the provisional certified well contractor; and

d. Successfully completes the examination.

82.3(4) The provisional certified well contractor shall become a certified well contractor after the submission of an application and appropriate fees to the department showing all requirements for certification have been met. The certificate for a provisional certified well contractor will be issued for one year. The department will issue a well contractor certificate after the one-year period and receipt of appropriate fees.

567—82.4 Reserved.

567—82.5 Reserved.

567—82.6(455B) Experience requirements.

82.6(1) All applicants shall meet the experience requirements as shown below.

CLASSIFICATION	EXPERIENCE
WELL CONTRACTOR	TWO YEARS
PROVISIONAL CERTIFIED WELL CONTRACTOR	ONE YEAR

82.6(2) Rescinded IAB 4/14/93, effective 3/26/93.

567—82.7(455B) Fees.

82.7(1) The examination fee for each examination shall be \$50.

82.7(2) The initial certification fee shall be \$75 for each one-half year or partial one-half year from the date of issuance to June 30, 1996. After July 1, 1996, the initial certification fee shall be \$75 for each one-half year of a two-year period from the date of issuance to June 30 of even-numbered years.

82.7(3) The penalty fee shall be \$100. The penalty fee is for late payment of the initial certification fee or renewal fee.

82.7(4) The certification renewal fee shall be \$100 for the two-year period.

567—82.8(455B) Examinations.

82.8(1) All persons wishing to take the examination required to become a certified water well contractor shall complete the Water Well Contractor Certification Examination Application, Form 43970. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate educational background, training and past experience in providing well services. The completed application and the application fee shall be sent to the director and addressed to the department in Des Moines. Application for examination must be received by the department at least 30 days prior to the date of examination.

82.8(2) The director shall designate department personnel to evaluate all applications for examination, certification and renewal of certification. The director will review applications when it is

indicated the applicant has falsified information or when questions arise concerning an applicant's qualifications of eligibility for examination or certification.

82.8(3) A properly completed application for examination will be valid for one year from the date the application is approved by the department.

82.8(4) An applicant who does not qualify for examination at the time of application will have the examination fee refunded if the applicant cannot qualify for examination within one year. If the applicant will qualify for a scheduled examination within one year, the applicant will be notified when the examination may be taken and the fee will not be refunded.

82.8(5) Upon failure of the first examination, the applicant may be reexamined at the next two scheduled examinations. Upon failure of the third examination, the applicant shall be required to wait a period of 90 days between each subsequent examination.

82.8(6) Upon each reexamination when a valid application is on file, the applicant shall submit to the department the examination fee at least ten days prior to the date of examination.

82.8(7) Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

82.8(8) Completed examinations will be retained by the director for a period of one year after which they will be destroyed.

82.8(9) Oral examinations.

a. Upon written request by an applicant for certification, the director will consider the presentation of an oral examination on an individual basis when: the applicant has failed the written examination at least three times; the applicant has shown difficulty in reading or understanding written questions but may be able to respond in oral questioning; the applicant is capable of communicating in writing with regard to departmental requirements and inquiries; and the director has received a written recommendation for an oral examination from a department staff member attesting to the operational and performance capabilities of the applicant. The director shall designate department personnel to administer the examination.

b. The examination shall contain practical questions pertaining to groundwater law, well construction, well maintenance, and well abandonment.

567—82.9(455B) Certification.

82.9(1) All applicants for certification shall successfully complete and pass an examination prior to receiving certification.

82.9(2) Application for certification must be received by the department within 30 days of the date the applicant receives notification of successful completion of the examination. All applications for certification shall be made on a form provided by the department and shall be accompanied by the certification fee.

82.9(3) Applications for certification by examination which are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days' notice of successful completion of the examination will not be certified on the basis of that examination.

82.9(4) Applicants may appeal a denial of certification pursuant to 567—Chapter 7.

567—82.10(455B) Renewals.

82.10(1) Renewal period. All certificates shall expire on June 30 of even-numbered years and must be renewed every two years in order to maintain certification. However, the first certification period shall be for three years starting July 1, 1993, and ending June 30, 1996.

82.10(2) Application for renewal will be mailed to all certified well contractors two months prior to the expiration date of their certificates. Application for renewal must be made in accordance with this rule and the instructions on the form in order to renew the certificate for the next two years. Application

for renewal of a certificate without penalty must be received by the director or postmarked prior to the expiration of the certificate, and shall be accompanied by the certification renewal fee.

82.10(3) Late application for renewal of a certificate may be made provided that such late application shall be received by the director or postmarked within 30 days of the expiration of the certificate on forms provided by the department. Such late application shall be accompanied by the penalty fee and the certification renewal fee.

82.10(4) If a certificate holder fails to renew within 30 days following expiration of the certificate, the right to renew the certificate automatically terminates. Certification may be allowed at any time following such termination provided that the applicant successfully completes an examination. The applicant must then apply for certification in accordance with rule 82.9(455B).

82.10(5) A certified well contractor may not continue to provide well services after expiration of a certificate without renewal thereof.

82.10(6) Continuing education must be earned during July 1, 1993, through March 31, 1996, for the initial certification period and must be earned during two-year periods beginning on April 1, 1996, and ending March 31 of even-numbered years thereafter. A certified well contractor must earn two units or 20 contact hours during each two-year period. Newly certified well contractors (previously uncertified) who became certified after April 1 of a two-year period will not be required to earn CEUs until the next two-year period.

82.10(7) Beginning July 1, 1994, and in succeeding even-numbered years, only those certified well contractors fulfilling the continuing education requirements before the end of each two-year period (March 31) will be allowed to renew their certificate. The certificate of certified well contractors not fulfilling the continuing education requirements shall expire on June 30 of the applicable biennium.

82.10(8) All activities for which continuing education credit will be granted must be approved by the department, college or university and shall be related to well services, relevant aspects of Iowa groundwater law, well construction, well maintenance, and well abandonment practices which protect groundwater and water supplies.

82.10(9) The director may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which to fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified well contractor which prevent attendance at the required activities. All requests for extensions must be made prior to March 31 of each biennium.

82.10(10) It is the certified well contractor's responsibility to notify the department of the continuing education credit earned during the period. The continuing education credits earned during the period shall be shown on the application for renewal.

82.10(11) A certified well contractor shall be deemed to have complied with the continuing education requirements of this rule during periods that the certified well contractor serves honorably on active duty in the military services, or for periods that the certified well contractor is a resident of another state or district having a continuing education requirement for certified well contractors and meets all the requirements of that state or district for practice there, or for periods that the person is a government employee working as a well contractor and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the director.

567—82.11 Reserved.

567—82.12(455B) Certified well contractor obligations.

82.12(1) *Submission of records and samples.* Each certified well contractor shall submit drilling records and drill cutting samples to the Geological Survey Bureau, Department of Natural Resources, Oakdale Campus, University of Iowa, Iowa City, Iowa 52242, telephone (319)338-1575, as follows:

a. Within 30 days of completion of any water well used as part of a public water supply, a well used for withdrawal of water for which a permit is required by rule 567—50.1(455B), or wells used to

monitor groundwater quantity or quality required by the department if so directed by the geological survey bureau, department of natural resources. The certified well contractor must submit the drilling records and samples required by subrules 82.12(2) and 82.12(3).

b. Within 30 days of the completion of any water well used as part of a nonpublic water supply or other water wells used to access groundwater.

c. Prior to constructing a water well to be used as part of a nonpublic water supply or other water well used to access groundwater, the certified well contractor must contact the local health department in the county in which the water well is to be located to determine if submittal of drill cutting samples is required.

82.12(2) *Drilling records and samples.* Drilling records and drilling cutting samples must be submitted in the water well driller's notebook and drill cutting sample bags provided by the geological survey bureau, department of natural resources.

82.12(3) *Water well log.* The water well driller's log shall include the following:

- a.* Location and legal description (quarter section, section number, township, range and county).
- b.* Reference point for all depth measurements.
- c.* Depth at which each significant change of formation occurs.
- d.* Depth at which pump is set, the nonpumping and pumping water levels in the well measured from the land surface and the rate and duration the well was pumped.
- e.* Identification of the material of which each significant stratum is composed.
- f.* Depth at which hole diameters (bit sizes) change.
- g.* Normal hole diameter of the well bore.
- h.* Total depth of the completed hole.
- i.* Depth or location of any lost drilling fluids, drilling materials, or tools.
- j.* Casing depth, grouting schedule including materials used and method of placement, description of the well casing and liner pipe.
- k.* Description of well screens including diameter, length, material slot sizes, amount of open area, and location in well.
- l.* Description of physical and chemical well development activities.

82.12(4) *Cutting samples.* Drilling cutting samples shall be collected at intervals of five feet and at each pronounced change in geological formation.

82.12(5) *Test pumping.* Certified well contractors shall provide the requested test pumping data for water wells used as part of a public water supply pursuant to 567—subrule 41.12(2) and for water wells utilized as part of a regulated water use pursuant to 567—subrule 50.6(1).

567—82.13(455B) Discipline of certified well contractors.

82.13(1) Disciplinary action may be taken against a certified well contractor on any of the grounds specified in Iowa Code section 455B.190A and the following more specific grounds. Iowa Code section 455B.109 authorizes the assessment of administrative penalties for violations of Iowa Code chapter 455B or rules, permits, and orders promulgated or issued pursuant to chapter 455B. The department will follow 567—Chapter 10 for assessing such penalties.

a. Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Failure to renew certification.

c. Failure to obtain required continuing education units.

d. Failure to submit required records or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

e. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified well contractor.

f. Violation of well construction standards or other requirements contained in 567—Chapters 38, 39, 43, 49, and 110.

g. Failure to advise a person for whom well services are being provided that a hazardous or potentially hazardous condition, as defined in Iowa Code section 455B.381(2), has been encountered.

h. Knowingly causing or allowing a hazardous or potentially hazardous condition due to well construction to exist.

82.13(2) Disciplinary sanctions allowable are:

a. Revocation of a certificate.

b. Revocation or suspension of the practice of a particular aspect of the contractor's responsibility.

c. Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation.

82.13(3) Procedure.

a. The director shall initiate disciplinary action. The commission may direct that the director investigate any alleged factual situation that may be grounds for disciplinary action under subrule 82.13(1) and report the results of the investigation to the commission.

b. A disciplinary action may be prosecuted by the director.

c. Written notice by certified mail shall be given to a certified well contractor against whom disciplinary action is being considered, at least 20 days in advance, that an informal hearing before the commission at a specific date, time and place has been scheduled for the certified well contractor, at which the commission will determine whether a formal hearing is warranted or whether informal resolution can be reached. The certified well contractor may present any relevant facts and indicate the certified well contractor's position in the matter.

d. A certified well contractor who receives notice of informal hearing shall communicate verbally or in writing or in person with the director, and efforts shall be made to clarify the respective positions of the certified well contractor and director. The staff may then come with a recommendation to the commission at the informal hearing concerning disciplinary sanction.

e. Failure to attend the informal hearing or otherwise communicate facts and position relevant to the matter by the scheduled date will be considered by the commission when determining whether a formal hearing is warranted.

f. If agreement as to appropriate disciplinary sanction, if any, can be reached with the certified well contractor and the commission concurs, a written stipulation and settlement between the department and the certified well contractor shall be entered. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the certified well contractor and the reasons for the particular sanctions imposed.

g. If the commission determines that no disciplinary action is warranted on the facts asserted, the certified well contractor shall be notified of the decision in writing.

h. If the commission determines that an opportunity for formal hearing is required to impose any disciplinary sanction specified in subrule 82.13(2), the director shall proceed in accordance with 567—Chapter 7.

567—82.14(455B,272C) Revocation of certificates. Upon revocation of a certificate in accordance with the authority provided in Iowa Code section 455B.190A, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

These rules are intended to implement Iowa Code sections 455B.187 and 455B.190A.

[Filed 11/20/92, Notice 9/16/92—published 12/9/92, effective 1/13/93*]

[Filed emergency 3/26/93—published 4/14/93, effective 3/26/93]

*Effective date of 567—82.1(455B), 82.2(2), 82.3(455B), and 82.6(455B) (published 12/9/92 IAB) delayed until adjournment of the 1993 General Assembly by the Administrative Rules Review Committee at its meeting held January 5, 1993.